



Decision to make Wireless Telegraphy licence exemption regulations

Statement

Publication date:

25 June 2013

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Section 1

Executive summary

- 1.1 This statement advises that following consultation, on 3 June 2013 Ofcom has made the Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2013 (the 'SRD Regulations') and the Wireless Telegraphy (Exemption) (Amendment) Regulations 2013 (the 'Handset and MSS Regulations'). These regulations will come into force on 26 June 2013.
- 1.2 Under section 8(1) of the Wireless Telegraphy Act 2006 (the 'WT Act'), it is an offence to establish, install or use equipment for wireless telegraphy without holding a licence granted by us, unless the use of such equipment is exempted. Ofcom is able to make regulations exempting the use of equipment by using powers conferred by section 8(3) of the WT Act.
- 1.3 The SRD Regulations make the following amendments to the current licence exemption criteria for Short Range Devices (SRD):
 - Radio Determination devices currently operating in the 10.577 to 10.597 GHz frequency band will have access to an additional 5 MHz of spectrum. The new allocation for these devices is 10.575 to 10.6 GHz; and
 - after 30 December 2014 the 10.675 to 10.699 GHz band will be closed for new SRD deployments. Equipment in use prior to the closure date will continue to be licence exempt. This statement and the published radio interface gives industry eighteen months notice of this decision.
- 1.4 The Handset and MSS Regulations introduce the following changes:
 - exempting the use of Long Term Evolution (LTE) and Worldwide Interoperability for Microwave Access (WiMAX) in the 800 MHz, 2100 MHz and 2.6 GHz frequency bands. These changes are made in connection with the implementation of a number of European Union (EU) Commission Decisions; and
 - extending the licence exemption for Mobile Satellite System (MSS) user terminals to include the 1518 to 1525 MHz, 1525 MHz to 1559 MHz, 1626.5 MHz to 1660.5 MHz and 1670 to 1675 MHz bands.
- 1.5 In accordance with the requirements of section 122(4) of the WT Act, we consulted on draft SRD Regulations and Handset and MSS Regulations before finalising our proposals.. On 9 April 2013 we published our document "Notice of proposals to make Wireless Telegraphy licence exemption regulations" (the 'Notice')¹ inviting comments from stakeholders on whether the draft regulations properly gave effect to our policy decisions on licence exemption.
- 1.6 We received one non-confidential and two confidential responses to the Notice. In accordance with section 122(4)(c) of the WT Act, we have considered these

¹ http://stakeholders.ofcom.org.uk/binaries/consultations/notice-proposals-wireless/summary/exemption_notice.pdf

responses. After doing so, and for the reasons set out in this document, we have decided to adopt the regulations as proposed.

- 1.7 Copies of the SRD Regulations and Handset and MSS Regulations will be available on the website www.legislation.gov.uk under the titles listed above.

Section 2

Background

Authorising spectrum use

- 2.1 Ofcom is responsible for authorising civil use of the radio spectrum and achieves this by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the 'WT Act') and by making regulations exempting users of particular equipment from the requirement to hold such a licence. Under section 8(1) of the WT Act, it is an offence to establish, install or use equipment to transmit without holding a licence granted by us, unless the use of such equipment is exempted.
- 2.2 Under section 8(4) of the WT Act, we have to make regulations to exempt equipment if its installation or use is not likely to:
- involve undue interference with wireless telegraphy;
 - have an adverse effect on technical quality of service;
 - lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
 - endanger safety of life;
 - prejudice the promotion of social, regional or territorial cohesion; or
 - prejudice the promotion of cultural and linguistic diversity and media pluralism.
- 2.3 In accordance with the requirements of section 8(3B) of the WT Act, the terms, provisions and limitations specified in the regulations must be:
- objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
 - not such as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what they are intended to achieve; and
 - transparent in relation to what they are intended to achieve.

First Consultation

- 2.4 In our document "Licence Exemption of Wireless Telegraphy Devices"² published on 26 July 2012 (the 'First Consultation'), we proposed to amend arrangements for equipment which is already subject to licence exemption, including:
- giving eighteen months notice of the closure of the 10.675 to 10.699 GHz band after which no new Short Range Device (SRD) devices will be able to be

² <http://stakeholders.ofcom.org.uk/binaries/consultations/wireless-telegraphy-devices-2/summary/wireless-telegraphy-device-2.pdf>

deployed in that band. Equipment in use prior to the closure date will continue to be licence exempt; and

- extending the licence exemption for Mobile Satellite System (MSS) user terminals to include the 1518 to 1525 MHz, 1525 MHz to 1559 MHz, 1626.5 MHz to 1660.5 MHz and 1670 to 1675 MHz bands.

- 2.5 Based on the responses received we decided to proceed with these proposals³. The changes to the licence exemption of SRD devices have been implemented through the SRD Regulations. We have updated the technical requirements in the Interface Requirement “IR 2030 - UK Interface Requirements 2030 Licence Exempt Short Range Devices” (IR 2030)⁴ accordingly. The eighteen month notice will start when the SRD Regulations come into force on 26 June 2013. From 30 December 2014, as referenced in the updated IR 2030, no new deployments of devices will be permitted.
- 2.6 The changes to the MSS licence exemption were implemented via the Handset and MSS Regulations. We have updated the technical requirements in the Interface Requirement “IR 2016 – UK Radio Interface Requirement for Land Mobile Satellite Systems” (IR 2016)⁵ accordingly. This Interface Requirement has been finalised and the changes will come into effect when the Handset and MSS Regulations come into force.

Second Consultation

- 2.7 In light of some of the responses to the First Consultation, on 13 December 2012 we published another consultation “Licence Exemption of Wireless Telegraphy Devices: Statement and Further Consultation”⁶ (the ‘Second Consultation’). The Second Consultation proposed to amend the current licence exemption for Radio Determination applications operating at 10.577 to 10.597 GHz. We proposed to extend this allocation by 5 MHz to 10.575 to 10.6 GHz.
- 2.8 Based on the responses received we decided to proceed with this proposal⁷. This was implemented through the SRD Regulations. We have updated the technical requirements in IR 2030 accordingly. The changes will come into effect when the SRD Regulations come into force.

Other amendments to the Regulations

- 2.9 In addition to the decisions set out in relation to the First and Second Consultations, the Handset and MSS Regulations also include changes that we needed to introduce as a result of the implementation of the following European Union (EU) Decisions which are legally binding on the UK:
- 2.9.1 Commission Decision 2008/477/EC of 13 June 2008 on the harmonisation of the 2500-2690 MHz frequency band for terrestrial systems capable of

³ Responses and statement available at

<http://stakeholders.ofcom.org.uk/binaries/consultations/licence-exemption-wireless/summary/condoc.pdf>

⁴ <http://stakeholders.ofcom.org.uk/spectrum/technical/interface-requirements/>

⁵ <http://stakeholders.ofcom.org.uk/spectrum/technical/interface-requirements/>

⁶ <http://stakeholders.ofcom.org.uk/binaries/consultations/licence-exemption-wireless/summary/condoc.pdf>

⁷ Responses and statement available at <http://stakeholders.ofcom.org.uk/consultations/licence-exemption-wireless/statement/>

- providing electronic communications services in the Community (the '2.6 GHz Decision')⁸;
- 2.9.2 Commission Decision 2010/267/EU of 6 May 2010 on harmonised technical conditions of use in the 790-862 MHz frequency band for terrestrial systems capable of providing electronic communications services in the European Union (the '800 MHz Decision')⁹;
- 2.9.3 Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (the 'RSPD Decision')¹⁰; and
- 2.9.4 Commission Implementing Decision 2012/688/EU of 5 November 2012 on the harmonisation of the frequency bands 1920-1980 MHz and 2110-2170 MHz for terrestrial systems capable of providing electronic communications services in the Union (the '2100 MHz Decision')¹¹.
- 2.10 Most EU harmonisation measures are normally prepared in collaboration with the European Conference of Postal and Telecommunications Administrations (CEPT) and adopted by the EU with the assistance of the Radio Spectrum Committee (RSC). As implementation of the measures outlined in these Decisions is a mandatory requirement for all Member States we did not seek responses in either the First or Second Consultation on these changes.
- 2.11 The Handset and MSS Regulations introduce the following changes:
- permit the use of 4G user terminals (handsets/dongles) in the 790 to 862 MHz ('800 MHz band') and 2500 to 2690 MHz ('2.6 GHz band') as a result of European Commission Decisions 2010/267/EU and 2008/477/EC; and
 - permit the use of fourth generation (4G) (LTE and WiMAX) user terminals (handsets/dongles) in the 1920 to 1980 MHz and 2110 to 2170 MHz (the '2100 MHz band') as a result of European Commission Decision 2012/688/EU.

The 800 MHz and 2.6 GHz bands

- 2.12 On 13 June 2008 the European Commission adopted the 2.6 GHz Decision relating to the 2.6 GHz band. The 2.6 GHz Decision, which is binding on Member States, required them to designate the 2.6 GHz band within 6 months of the decision's entry into force and subsequently make it available on a non-exclusive basis for terrestrial systems capable of providing electronic communications services (which includes 4G), subject to a number of specified technical parameters relating to harmful interference.
- 2.13 On 6 May 2010 the European Commission adopted the 800 MHz Decision relating to the 800 MHz band. The 800 MHz Decision, which is also binding on Member States, is intended to harmonise the technical conditions for the availability and efficient use of the 800 MHz band. Whilst the 800 MHz Decision did not require Member States to designate or make available the 800 MHz band, it does provide that if they decide to do so (other than for high-power broadcasting networks) they must do so on a non-

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:163:0037:0041:EN:PDF>

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:117:0095:0101:EN:PDF>

¹⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:081:0007:0017:EN:PDF>

¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:307:0084:0088:EN:PDF>

exclusive basis for terrestrial systems capable of providing electronic communications services (which includes 4G), again subject to a number of specified technical parameters relating to harmful interference.

- 2.14 On 14 March 2012 the European Parliament and the Council adopted the RSPP Decision which establishes a Radio Spectrum Policy Programme with the intention of setting policy orientations and objectives for the strategic planning and harmonisation of the use of spectrum. The RSPP Decision, which is binding on Member States, requires that Member States make the 2.6 GHz band available in accordance with the terms and conditions of the 2.6 GHz Decision and, subject to market demand, carry out the authorisation process by 31 December 2012 without prejudice to the existing deployment of services, and under conditions that allow consumers easy access to wireless broadband services. It also requires that Member States carry out the authorisation process for the 800 MHz band by 1 January 2013 in order to allow the use of that band for electronic communications services. As a Member State of the European Union, the UK is bound by the terms of the Decisions.
- 2.15 We have recently awarded the 800 MHz and 2.6 GHz bands¹². As part of this process we set out and consulted on technical parameters that equipment must operate to¹³. These were in line with the EU Decisions that relate to these bands. As part of our consultations¹⁴ on the proposed awards we advised that the use of certain network terminals would be licence-exempt (we will not be exempting terminals with a Total Radiated Power above 23 dBm in the 2.6 GHz band). To introduce the relevant licence exemptions, we have amended the Wireless Telegraphy (Exemption) Regulations 2003 to exempt LTE and WiMAX user terminals operating in the 800 MHz and 2.6 GHz bands from the requirement to hold a licence under the WT Act.
- 2.16 Interface Requirements “IR 2072 - UK Interface Requirement 2072 Terrestrial systems capable of providing electronic communications services in the band 2500 to 2690 MHz” (IR 2072)¹⁵ and “IR 2090 – UK Interface Requirement 2090 Terrestrial systems capable of providing electronic communications services in the 800MHz band” (IR 2090)¹⁶ detail the technical conditions for the use of LTE and WiMAX user terminals in the UK in the 800 MHz and 2.6 GHz bands and are available on Ofcom’s website¹⁷.
- 2.17 These Interface Requirements have been finalised and will come into effect when the Handset and MSS Regulations come into force. Equipment under the control of a licensed network that complies with the regulations and meets the requirements of IR 2072 and IR 2090 will be exempt from the need to hold WT Act licence.

The 2100 MHz band

- 2.18 On 5 November 2012 the European Commission adopted Commission Implementing Decision 2012/688/EU which requires Member States to designate and make

¹² <http://stakeholders.ofcom.org.uk/spectrum/spectrum-awards/>

¹³ “Consultation and information on technical licence conditions for 800 MHz and 2.6 GHz spectrum and related matters” published 2 June 2011. Available at

<http://stakeholders.ofcom.org.uk/binaries/consultations/tlc/summary/condoc.pdf>

¹⁴ <http://stakeholders.ofcom.org.uk/binaries/spectrum/spectrum-awards/awards-in-progress/notices/4g-final-results.pdf>

¹⁵ <http://stakeholders.ofcom.org.uk/spectrum/technical/interface-requirements/>

¹⁶ <http://stakeholders.ofcom.org.uk/spectrum/technical/interface-requirements/>

¹⁷ <http://stakeholders.ofcom.org.uk/spectrum/technical/interface-requirements/?a=0>

available the 2100 MHz band under conditions that enable the use of 4G technology by no later than 30 June 2014, or earlier if issuing/amending rights in this band.

- 2.19 As a Member State of the European Union, the UK is bound by the terms of the Decision and is required to implement them. On 1 February 2013 Ofcom published a consultation “Variation of 900 MHz, 1800 MHz and 2100 MHz Mobile Licences”¹⁸. This consultation proposes to liberalise the current 2100 MHz band licences awarded in 2000 and remove some of the restrictions currently in place on the technologies that can be employed. We are proposing a common standard of technology neutrality as opposed to the current restriction of only permitting Universal Mobile Telecommunications System (UMTS) (also known as 3G). This would facilitate any future re-farming by operators as their networks in other bands mature. The consultation closed on 29 March 2013.
- 2.20 In consequence of the requirement to implement this Decision, we also amended the Wireless Telegraphy Act (Exemption) Regulations 2003 to exempt LTE and WiMAX user terminals operating in the 2100 MHz band from the requirement to hold a licence under the WT Act.
- 2.21 Interface Requirement “IR 2092- UK Interface Requirement 2092 Terrestrial systems capable of providing electronic communications services in the frequency bands 1920-1980 MHz and 2110-2170 MHz” (IR 2092)¹⁹ details the technical conditions for the use of LTE and WiMAX user terminals in the UK and is available on Ofcom’s website²⁰.
- 2.22 This Interface Requirement has been finalised and will come into effect when the Handset and MSS Regulations come into force. Equipment under the control of a licensed network that complies with the regulations and meets the requirements of IR 2092 will be exempt from the need to hold WT Act licence.

¹⁸ <http://stakeholders.ofcom.org.uk/binaries/consultations/variation-900-1800-2100/summary/condoc.pdf>

¹⁹ http://stakeholders.ofcom.org.uk/binaries/spectrum/spectrum-policy-area/spectrum-management/research-guidelines-tech-info/interface-requirements/Draft_IR_2092.pdf

²⁰ <http://stakeholders.ofcom.org.uk/spectrum/technical/interface-requirements/?a=0>

Section 3

Scope of Regulations

Introduction

- 3.1 This section outlines the comments that we received to the Notice and our response to these. We received one non-confidential and two confidential responses. The non-confidential response is published in full on our website²¹. Following consideration of the response as outlined below, we have decided to proceed with our proposal to make the regulations.

Stakeholders' responses to the Notice

- 3.2 All three respondents supported the proposals to make the SRD Regulations. None made any comments on the Handset and MSS Regulations.
- 3.3 The Low Power Radio Association (LPRA) also commented on the Regulatory Impact Assessment (RIA). They advised that in addition to radio equipment standards as set by ETSI, they would also have to retest equipment to ensure it meets European Committee for Electrotechnical Standardisation (CENELEC) standards. They advise this is a result of continuing lack of harmonisation of UK spectrum with other European administrations.
- 3.4 We acknowledge the point made about re-testing equipment. On the issue of harmonisation with other European countries we would like to point the LPRA to our response to them in paragraph 2.6 of the Second Consultation Statement²² and paragraph 2.11 of the Second Consultation.

Final scope of SRD Regulations

Ofcom's decision

- 3.5 On 3 June 2013 Ofcom made the SRD Regulations as proposed. The SRD Regulations come into force on 26 June 2013. They are summarised below.

Extent of application

- 3.6 The Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal adoption by the Island Authorities.

The Regulations

- 3.7 Regulation 2 updates the reference to IR 2030. The updated IR 2030 contains the technical changes for equipment in the 10.675 to 10.699 GHz and 10.575 to 10.6 GHz bands, including relating to the closure of the 10.675 to 10.699 GHz band to new equipment following an 18-month notice period.

²¹ <http://stakeholders.ofcom.org.uk/consultations/licence-charges/?showResponses=true>

²² <http://stakeholders.ofcom.org.uk/binaries/consultations/licence-exemption-wireless/statement/statement.pdf>

Final scope of Handset and MSS Regulations

Ofcom's decision

- 3.8 On 3 June 2013 Ofcom made the Handset and MSS Regulations. The Handset and MSS Regulations come into force on 26 June 2013. They are summarised below.

Extent of application

- 3.9 The Handset and MSS Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal adoption by the Island Authorities.

The Regulations

- 3.10 Regulation 2(2) inserts the 800 MHz, 2100 MHz and 2.6 GHz frequency bands into the current exemption for WiMAX and LTE mobile terminals.
- 3.11 Regulation 2(3) inserts the reference to the relevant technical IR documents.
- 3.12 Regulation 2(4) replaces the previous version of IR 2016 with the updated document. This contains the new MSS user terminals in the 1518 to 1525 MHz, 1525 MHz to 1559 MHz, 1626.5 MHz to 1660.5 MHz and 1670 to 1675 MHz frequency bands.

Annex 1

Respondents

Low Power Radio Association (LPRA)